ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION

WRIT PETITION NO.809 OF 2003

Shivneri Sahakari Bank Ltd. ...Petitioner
vs.
Raghunath Shamrao Natekar & Ors. ...Respondents

Mr.Amit Borkar for the Petitioner
Mr.S.S.Patwardhan for the respondent no.1

CORAM : A.S.OKA,J.
DATE : SEPTEMBER 30, 2011

P.C.:

1 Heard the learned counsel for the petitioner and the learned counsel for the first respondent. The learned counsel for the petitioner invited the attention of the Court to the order dated 24th September 2002 which is an order of injunction passed by the Co-operative Court. The said order has been set aside in Appeal by the Co-operative Appellate Court by passing the impugned order.

2 Having heard the learned counsel for the petitioner, I find that the prayer for injunction made by the petitioner was misconceived. Dispute was filed by the petitioner for recovery of the amount. Therefore, remedy of the petitioner was to apply for attachment before Judgment and the interim injunction in the nature which is prayed for could not have been granted.

3 Hence, only on this ground, writ petition

deserves to be rejected.

4 Hence, I pass the following order :

i) Writ Petition is rejected. It will be open for the Petitioner to apply to the Co-operative Court for attachment before Judgment.

ii) All contentions of the parties on merits of the said application are kept open.

iii) Ad-interim relief granted earlier will continue to operate for a period of ten weeks to enable the petitioner to make appropriate application.

iv) If application for Judgment before attachment is made, the same shall be decided without being influenced by the findings recorded by the Co-operative Appellate Court.

JUDGE